REMARKS

Claims 7 and 27-33 are pending in this application.

Claims 1-6 and 8-26 have been canceled without prejudice.

Amendments to the Title.

The title has been amended to more accurately reflect the subject matter of the claims. No new matter is added.

Claim Amendments.

Claim 7 has been amended to replace the reference to "an analogous sequence" with "a functional fragment of SEQ ID NO:4 having a length sufficient to provide a 5-fold or greater reduction in influenza virus infectivity." In addition, claim 7 has been amended to specify that the peptide consists of 8 to 50 amino acid residues.

New claim 27 is directed to an isolated peptide consisting of SEQ ID NO:4 (i.e., canceled claim 26 rewritten in independent form).

New claim 28 specifies that the peptide of claim 7 consists of a functional fragment of SEQ ID NO:4 having a length sufficient to provide a 5-fold or greater reduction in influenza virus infectivity.

New claim 29 is directed to an isolated peptide consisting of up to 40 amino acid residues of SEQ ID NO:4.

New claim 30 is directed to an influenza virus fusion inhibiting agent comprising a peptide consisting of up to 50 amino acid residues, wherein the peptide comprises SEQ ID NO:4.

New claim 31 specifies that the peptide of the influenza virus fusion inhibiting agent of claim 30 consists of SEQ ID NO:4.

New claim 32 is directed to an influenza virus fusion inhibiting agent comprising a peptide consisting of 8 to 50 amino acid residues, wherein the peptide comprises a functional fragment of SEQ ID NO:4 having a length sufficient to provide a 5-fold or greater

reduction in influenza virus infectivity.

New claim 33 specifies that the peptide of the influenza virus fusion inhibiting agent of claim 32 consists of a functional fragment of SEQ ID NO:4 having a length sufficient to provide a 5-fold or greater reduction in influenza virus infectivity.

Support for these amendments and new claims can be found in paragraph 26, on page 7, and in paragraph 48, on pages 15-16. No new matter is added.

Allowable Claim.

Applicants gratefully acknowledge the Examiner's indication that claim 26, directed to a peptide of claim 7 consisting of SEQ ID NO:4, would be allowable if rewritten in independent form. In response, claim 26 has been canceled and represented in independent form in new claim 27.

Rejections Under the Second Paragraph of 35 U.S.C. §112.

Claim 7 stands rejected as allegedly being indefinite for reciting the term "an analogous sequence". While Applicants do not agree with this assessment, in the interest of expediting prosecution, this term has been replaced by the phrase "a functional fragment of SEQ ID NO:4 having a length sufficient to provide a 5-fold or greater reduction in influenza virus infectivity." The replacement phrase is both clear and definite, because the fragment is limited in size and sequence by reference to SEQ ID NO:4, and the functional aspect of the fragment would have been readily determinable by one of ordinary skill in the art, because methods of assessing viral infectivity were known in the art at the time of the invention and are disclosed in the application, e.g., in paragraph 48. Withdrawal of this rejection is requested.

Rejections Under 35 U.S.C. §102.

Claim 7 stands rejected as being anticipated by Shatzman *et al.* This rejection is unwarranted. The present claims encompass peptide of specified length (i.e., peptides consisting of 8 to 50 amino acid residues), wherein the peptide comprise the amino acid

sequence of SEQ ID NO:4 or a specified functional fragment thereof (i.e., a fragement having sufficient length to provide a 5-fold or greater reduction in influenza virus infectivity. In contrast, Shatzman discloses a 145 amino acid peptide comprising SEQ ID NO:4. This reference does not teach or even suggest a peptide consisting of 8 to 50 amino acid residues that comprises SEQ ID NO:4 or a functional fragment of SEQ ID NO:4 having a length sufficient to provide a 5-fold or greater reduction in influenza virus infectivity, as currently claimed. Accordingly, the present claims clearly are patentable over Shatzman *et al.*

Conclusion.

Reconsideration and allowance of all claims is solicited.

Respectfully submitted,

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